



21 SEP 2007

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In re Application of	:	
SPRYCHA et al.	:	
Application No.: 10/522,972	:	DECISION ON PETITION
PCT No.: PCT/US03/25137	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 August 2003	:	
Priority Date: 08 August 2002	:	
Attorney Docket No.: C-553US	:	
For: APPARATUS AND METHOD FOR	:	
QUANTATIVELY MEASURING LIQUID	:	
DRYING RATES ON SUBSTRATES	:	

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed in the Patent and Trademark Office (PTO) on 13 July 2007.

BACKGROUND

On 08 August 2003, applicants filed international application PCT/US03/25137 which claimed a priority date of 08 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 February 2005.

On 01 February 2005, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee and a copy of the international application.

On 05 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the priority date was required. The notification set a two (2) month period for response.

On 20 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the above identified

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application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 05 December 2005 within the time period set therein.

On 13 July 2007, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

With regard to Item (1), the proper response is the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b). (An additional claim fees of \$150 was also due.) A review of the declaration filed on 13 July 2007 reveals that the declaration is not in an acceptable form. Applicants have provided a defective executed composite declaration. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration.

A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets (the signature page containing the second through fifth inventors). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Further, the declaration executed by Doreen Smith is defective and is insufficient to satisfy the oath or declaration requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration includes an alteration that has not been initialed and dated by the inventor. (See MPEP §605.04(a) and 37 CFR 1.52(c))

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Since applicants have not met the requirements for revival of an application under 37 CFR 1.137(b), revival at this time would not be proper.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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